

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

MICHAEL JERRIAL IBENYENWA

§

VS.

§

CIVIL ACTION NO. 9:19cv19

KAYLA G. SCOTT, ET AL.

§

**ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Michael Jerrial Ibenyenwa, proceeding *pro se*, filed the above-styled civil rights lawsuit. The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending that a motion for class certification be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court is of the opinion the objections are without merit. Federal Rule of Civil Procedure 23(a) sets forth four requirements that must be met before a class can be certified. One of the requirements is that the representative party will fairly and adequately protect the interests of the class. The Magistrate Judge found that as plaintiff is proceeding *pro se*, he could not adequately protect the interests of the class. The court agrees. The authorities cited by the Magistrate Judge establish that courts have been unwilling to permit a person who is not represented by counsel to act as a class representative. As plaintiff does not satisfy the adequacy requirement, the remaining requirements listed in Rule 23 need not be considered. Moreover, plaintiff has not established that he is entitled to have counsel appointed to represent him and the class.

****NOT FOR PRINTED PUBLICATION****

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ACCEPTED**. The motion for class certification (doc. no. 26) is **DENIED**.

So ORDERED and SIGNED, Aug 16, 2021.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge